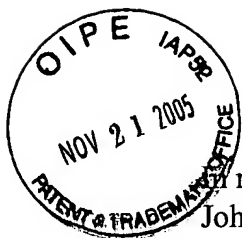


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of  
John D. Phillips

Serial No. 10/051,486

Filed January 18, 2002

For Laminated Roofing Shingle Having Staggered  
Shadow Lines and Method of Making the Same

)  
) Group Art Unit 3637  
)  
) Examiner A. Phi Dieu Tran  
)  
) Attorney Docket 24457B  
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APPELLANT'S BRIEF UNDER 37 C.F.R. § 41.37

Honorable Sir:

This brief is in furtherance of a Notice of Appeal, filed on September 11, 2005. The fees required under 37 C.F.R. § 41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefore and any necessary fees are to be charged to Deposit Account No. 50-0568.

Appellant accordingly requests that the Board of Patent Appeals and Interferences reverse the Examiner as to all rejections.

Respectfully submitted,

*James J. Dottavio*  
James J. Dottavio  
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Date 11-15-05  
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### I. Real Party In Interest

The above-identified patent application is owned by Assignor, Owens Corning Fiberglass Technology Inc., a corporation organized and existing by virtue of the laws of the State of Illinois, having its principal place of business in Summit, Illinois.

### II. Related Appeals And Interferences

There are no other appeals or interferences that are known to Appellant, the Appellant's representative, or assignee which will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

### III. Status Of Claims

Claims 1-45 stand rejected and all claims 1-45 are appealed.

### IV. Status Of Amendments

In the Advisory Action dated July 29, 2005, the Examiner indicated that Appellant's last amendment, which was filed on July 18, 2005, has been entered. Hence, there are no outstanding unentered amendments.

### V. Summary Of Claimed Subject Matter

A. The invention is a laminated roofing shingle having an overlay and an underlay, with granules that are *darker*, or a *different coloration or shade*, disposed on different portions of the overlay and the underlay so that the shingle has a three-dimensional appearance.

The present invention is directed toward a laminated roofing shingle having *an overlay with tabs having a first shadow line and a remaining portion and an underlay having a second shadow line and a remaining portion*. The shadow lines are *substantially darker in color* than the remaining portions. The underlay is attached to

an underside of the overlay and has a portion *exposed through openings* in the overlay so that the shingle has a three-dimensional appearance.

As claimed in independent claim 1 and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, the laminated roofing shingle 10 comprising:

*an overlay 12* having an underside 23 and a plurality of spaced apart tabs 20a, 20b, 20c, each one of the tabs having a leading edge 24a, *a first shadow line 38*, and *a remaining portion 42*, the tabs defining openings 22a, 22b, 22c adjacent the tabs;

a layer of granules disposed on the first shadow line of the tabs and on the remaining portion of the tabs in a manner whereby the first shadow line of the tabs is *substantially darker in color* than the remaining portion of the tabs;

*an underlay 14* is attached to the underside of the overlay to cooperatively form the laminated roofing shingle, the underlay having a leading edge 24b, *a second shadow line 40*, and *a remaining portion 46* between the leading edge of the underlay and the second shadow line, the leading edge of the underlay generally co-aligning with the leading edge of the tabs, the underlay having a portion *exposed through the openings* defined adjacent the tabs; and

a layer of granules disposed on the underlay in a manner whereby the second shadow line of the underlay is *substantially darker* than the remaining portion of the underlay.

Another embodiment of the invention is directed toward a laminated roofing shingle having *an overlay with tabs having a leading edge with a first shadow line* and *an underlay having a trailing edge with a second shadow line*. The shadow lines are *substantially darker* than remaining portions of the tabs and underlay. The underlay is attached to an underside of the overlay so that *the second shadow line is exposed*

*through openings* in the overlay. The first and second shadow lines are staggered so that the shingle has an enhanced three-dimensional appearance.

As claimed in independent claim 7 and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, a laminated roofing shingle 10 comprises:

*an overlay 12 having an underside 23, a headlap section 16 and a plurality of spaced apart tabs 20a, 20b, 20c extending from the headlap section, the headlap section having a leading edge 47, each one of the tabs having a leading edge 24a, an outer surface 34a, a first shadow line 38, and a remaining portion 42, the first shadow line and the remaining portion being on the outer surface 34a of the tabs, the first shadow line extending from the leading edge of the tabs to the remaining portion of the tabs, the tabs and the leading edge of the headlap section defining openings;*

*a layer of granules disposed on the first shadow line of the tabs and on the remaining portion of the tabs in a manner whereby the first shadow line of the tabs is substantially darker in color than the remaining portion of the tabs;*

*an underlay 14 attached to the underside of the overlay to cooperatively form the laminated roofing shingle, the underlay having an outer surface 34b, a leading edge 24b, a trailing edge 44, a second shadow line 40, and a remaining portion 46 between the leading edge of the underlay and the second shadow line, the leading edge of the underlay generally co-aligning with the leading edge of the tabs, the second shadow line and the remaining portion of the underlay being on the outer surface of the underlay, the second shadow line extending from the trailing edge of the underlay to the remaining portion of the underlay, the underlay having a portion exposed through the openings*

defined by the tabs and the leading edge of the headlap section, the second shadow line being exposed through the opening and adjacent the leading edge of the headlap section; and

a layer of granules disposed on the underlay in a manner whereby the second shadow line of the underlay is *substantially darker* than the remaining portion of the underlay.

Another embodiment of the invention is also directed toward a laminated roofing shingle having *an overlay with a tab having a leading edge that is generally darker than a remaining portion of the tab and an underlay having a shadow line that is generally darker than a remaining portion of the underlay*. The shingle has a three-dimensional appearance.

As claimed in independent claim 21, and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, a laminated roofing shingle 10 comprises:

*an overlay 12 having a tab 20a, 20b, 20c with a leading edge 24a having granules thereon and a remaining portion 42 having granules thereon, wherein the leading edge is generally darker than the remaining portion; and*

*an underlay 14 attached to the overlay 12, the underlay having a shadow line having granules thereon and a remaining portion having granules thereon, wherein the shadow line is generally darker than the underlay remaining portion.*

Another embodiment of the invention is directed toward a laminated roofing shingle having an overlay with a tab having *a first shadow line between a leading edge and a remaining portion thereof* and an underlay having *a remaining portion between a leading edge and a second shadow line thereof*. The shadow lines are *generally darker* than the remaining portions. A portion of the underlay is *exposed* and the

shadow lines are staggered so that the shingle has an enhanced three-dimensional appearance.

As claimed in independent claim 22, and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, a laminated roofing shingle 10 comprises:

an overlay 12 having a tab 20a, 20b, 20c with a leading edge 24a, a first shadow line 38, and a remaining portion 42, *the shadow line being positioned between the leading edge and the remaining portion;*

a layer of granules disposed on the first shadow line and on the remaining portion of the tab in a manner whereby the first shadow line is *generally darker in color* than the remaining portion.

an underlay 14 attached to the underside of the overlay to cooperatively form the laminated roofing shingle, the underlay having a leading edge 24b, a second shadow line 40, and *a remaining portion between the leading edge of the underlay and the second shadow line,* the leading edge of the underlay generally co-aligning with the leading edge of the tab, the underlay having an exposed portion; and

a layer of granules disposed on the underlay in a manner whereby the second shadow line of the underlay is *generally darker* than the remaining portion of the underlay.

Another embodiment of the invention is directed toward a laminated roofing shingle having an overlay with a tab having *a first shadow line between a leading edge and a remaining portion* thereof and an underlay having *a remaining portion between a leading edge and a second shadow line* thereof. *The shadow lines are a different color or shade than the remaining portions.* The underlay has *an exposed portion* so that the shingle has a three-dimensional appearance.



As claimed in independent claim 23, and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, a laminated roofing shingle 10 comprises:

an overlay 12 having a tab 20a, 20b, 20c with a leading edge 24a, a first shadow line 38, and a remaining portion, *the shadow line being positioned between the leading edge and the remaining portion*;

a layer of granules disposed on the first shadow line and on the remaining portion of the tab in a manner whereby the first shadow line is a different color or shade than the remaining portion;

an underlay 14 attached to the underside of the overlay to cooperatively form the laminated roofing shingle, the underlay having a leading edge 24b, a second shadow line 40, and a remaining portion 46 between the leading edge of the underlay and the second shadow line, the leading edge of the underlay generally co-aligning with the leading edge of the tab, the underlay having an exposed portion; and

a layer of granules disposed on the underlay in a manner whereby the second shadow line of the underlay is a different color or shade than the remaining portion of the underlay.

Yet another embodiment of the invention is directed toward a laminated roofing shingle having a tab with *first colored granules adhered to a leading edge* of an outer surface thereof and *second colored granules adhered to the outer surface and separated from the leading edge thereof by the first colored granules*, wherein the second colored granules *have a different coloration or shade* than the first colored granules, and an underlay having *third colored granules adhered to a trailing edge of an outer surface thereof* and *fourth colored granules adhered adjacent the leading edge of the outer surface of the underlay*, wherein the fourth colored granules have a *different coloration or shade* than the third colored granules. The colored granules are arranged so that the shingle has an enhanced three-dimensional appearance.

As claimed in independent claim 24, and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, a laminated roofing shingle 10 having a headlap section 16 and a butt section 18, the shingle comprises:

an overlay 12 having a tab 20a, 20b, 20c in the butt section, the tab having an outer surface 34a with a trailing edge 62 adjacent the headlap section and a leading edge 24a spaced from the trailing edge, the tab further having a width;

an underlay 14 attached to an underside 23 of the overlay, the underlay having an outer surface 34b, the underlay outer surface being positioned adjacent the tab with a trailing edge 44 adjacent the headlap section and a leading edge 24b spaced from the trailing edge; and

first colored granules adhered 38 to the outer surface of the tab adjacent the leading edge of the tab to produce a first colored portion;

second colored granules 42 adhered to the outer surface of the tab separated from the leading edge of the tab by the first colored granules, the second colored granules have a different coloration or shade than the first colored granules to produce a second colored portion that is a different coloration or shade than the first colored portion;

third colored granules 40 adhered to the trailing edge of the outer surface of the underlay to provide a third colored portion; and

fourth colored granules 46 adhered adjacent the leading edge of the outer surface of the underlay and having a different coloration or shade than the third colored granules to produce a fourth colored portion that is a different coloration or shade than the third colored portion.

#### B. Additional Novel Elements of the Laminated Roofing Shingle

In certain embodiments, as disclosed in the specification, at least in col. 4, lines 19-24 and col. 6, lines 25-26, the tabs further have a trailing edge 62 on a side of the

remaining portion 42 of the tabs opposite the leading edge 24a of the tabs, and granules on the trailing edge form a shadow line 64 that is substantially narrow relative to the shadow line 40 on the trailing edge 44 of the underlay 14.

In certain embodiments, as disclosed in the specification, at least in Fig. 1, the first shadow line 38 is generally narrow relative to the second shadow line 40.

In certain embodiments, as disclosed in the specification, at least in col. 3, line 66 through col. 4, line 4 and col. 6, lines 24-25, and shown in Figs. 1-2, fifth colored granules 64 adhere to the outer surface 34a of the tab 20a, 20b, 20c separated from the first colored granules 38 by the second colored granules 42, the fifth colored granules having a different coloration or shade than the second colored granules.

In certain embodiments, as disclosed in the specification, at least in Figs. 1-2, the first colored granules 38 form a shadow line adjacent the leading edge 24a of the tab 20a, 20b, 20c across substantially the entire width of the tab.

In certain embodiments, as disclosed in the specification, at least in col. 4, lines 7 and 24-25, and shown in Figs. 1-2, the first colored granules 38 comprise darker granules than the second colored granules 42.

In certain embodiments, as disclosed in the specification, at least in cols. 3-4, lines 66-4 and col. 6, lines 24-25, and shown in Figs. 1-2, fifth colored granules 64 adhere to the outer surface 34a of each of the tabs 20a, 20b, 20c separated from the first and sixth colored granules 38 by the second colored granules 42, the fifth colored granules have a different coloration or shade than the second colored granules and form a fourth shadow line adjacent the headlap section 16.

C. The invention is also a method for making a laminated roofing shingle. The method comprises the step of applying granules to portions of a base material corresponding to a leading edge of a tab of an overlay and a trailing edge of an underlay so that the leading and trailing edges are generally darker, or a different color or shade, than remaining portions of the tabs and underlay. The generally

darker, or a different colored or shaded portions, produce a shingle having an enhanced three-dimensional appearance.

The present invention is directed toward a method for making a laminated roofing shingle comprising the step of applying *darker granules* to portions of a base material *corresponding to a leading edge of tabs of an overlay and a trailing edge of an underlay* and *lighter colored granules* to *remaining portions* of the tabs and underlay. The generally darker leading and trailing edges produce staggered shadow lines so that the shingle has an enhanced three-dimensional appearance.

As claimed in independent claim 12, and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, and further disclosed in the specification in col. 4, line 63 through col. 6, line 35, and shown in Figs. 6-7, a method for making a laminated roofing shingle 10 having an overlay 12 and an underlay 14 formed from a base material 48 having an outer surface 34 and an undersurface 23, the overlay has tabs 20a, 20b, 20c and openings 22a, 22b, 22c defined adjacent the tabs, the tabs having leading edges 24a, and the underlay having a trailing edge 44, the method comprises the steps of:

- (a) coating a base material 112 to produce a coated base material;
- (b) forming a granule-covered sheet by applying a layer of granules 114 to the outer surface of the coated base material so as to apply *darker granules* to portions of the base material corresponding to *the leading edge of the tabs* of the resultant laminated shingle and on *the trailing edge of the underlay* of the resultant laminated shingle and apply *lighter colored granules* to *remaining portions* of the tabs and the underlay so that the leading edge of the tabs and the trailing edge of the underlay are generally darker in color than the remaining portions of the tabs and the underlay; and

(c) cutting the granule covered sheet to form the overlay of the resultant laminated shingle and the underlay of the resultant laminated shingle.

Another embodiment of the invention is directed toward a method for making a laminated roofing shingle. The method comprises the step of applying granules of *one color or shade* to portions of the base material corresponding to *a leading edge of a tab of an overlay* of the resultant laminated shingle and *a trailing edge of an underlay* of the resultant laminated shingle and applying granules of *a different color or shade to adjacent portions* of the tab and the underlay. The manner in which the granules are applied produces an enhanced three-dimensional appearance.

As claimed in independent claim 34, and disclosed in the specification in col. 3, lines 7-67 and col. 4, lines 1-47, and shown in Figs. 1-4, and further disclosed in the specification in col. 4, line 63 through col. 6, line 35, and shown in Figs. 6-7, a method for making a laminated roofing shingle 10 having an overlay 12 and an underlay 14 formed from a base material 48 having an outer surface 34 and an undersurface 23, the overlay having a tab 20a, 20b, 20c, the tab having a leading edge 24a, the underlay having a trailing edge 44, the method comprises the steps of:

(a) coating a base material 112 to produce a coated base material;

(b) forming a granule-covered sheet by applying a layer of granules 114 to the outer surface of the coated base material so as to apply granules of *one color or shade* to portions of the base material corresponding to *the leading edge of the tab* of the resultant laminated shingle and to *the trailing edge of the underlay* of the resultant laminated shingle and apply granules of *a different color or shade to adjacent portions* of the tab and the underlay; and

(c) cutting the granule covered sheet is cut to form the overlay of the resultant laminated shingle and the underlay of the resultant laminated shingle.

#### D. Additional Novel Elements of the Method

In certain embodiments, as disclosed in the specification, at least in col. 4, lines 1-4, col. 5, lines 24-31, and shown in Fig. 6, granules of the first color or shade are applied to portions of the base material corresponding to the tab 20a, 20b, 20c and spaced from the leading edge 24a of the tab and separated from the granules applied to the leading edge of the tab by the granules of the second color.

#### VI. Grounds of Rejection to be Reviewed on Appeal

Grounds of rejection are set forth in the Office Action dated May 18, 2005, as follows:

1. Claims 1-6 are rejected as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,666,776, to Weaver (hereinafter "Weaver") in view of U.S. Patent No. D336,347, to Hannah et al. (hereinafter "Hannah") and U.S. Patent No. D4,274,243, to Corbin et al. (hereinafter "Corbin").

2. Claims 7-11 and 21-23 are rejected as being unpatentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

3. Claims 24 and 26-32 are rejected as being unpatentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

4. Claims 25 and 33 are rejected as being unpatentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

5. Claims 12-20 are rejected as being unpatentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

6. Claims 34-45 are rejected as being unpatentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

## VII. Arguments of Patentability

### A. The criteria for establishing a *prima facie* case of obviousness have not been met.

To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the applied reference must teach or suggest all the claim limitations. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Further, the fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See also MPEP § 2143.

Although this conclusion is one of law, such determinations are made against a background of several factual inquiries, one of which is the scope and content of the prior art. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966).

The present invention is a laminated roofing shingle having an overlay and an underlay, with granules that are *darker*, or a *different coloration or shade*, disposed on different *portions of the overlay and the underlay* so that the shingle has a three-dimensional appearance.

1. Examiner admits Weaver is silent with respect to claimed elements.

The Examiner has admitted that Weaver is silent with respect to each of the following elements:

- the tab having a first shadow line and a remaining portion (see Office Action at page 3, line 1, page 5, line 8),
- the first shadow line and a remaining portion being on the outer surface of the tab (see Office Action at page 5, line 9),
- the first shadow line extending from the leading edge of the tabs to the remaining portion of the tabs (see Office Action at page 5, lines 9-10),
- a layer of granules disposed on the first shadow line of the tabs and on the remaining portion of the tabs whereby that first shadow line of the tabs is substantially darker in color than the remaining portion of the tabs (see Office Action at page 3, lines 2-4 and page 5, lines 10-13),
- granules on the first shadow line being black (see Office Action at page 3, line 4),
- first colored granules forming a shadow line adjacent the leading edge of tab across substantially the entire width of the tab (see Office Action at page 8, lines 6-7),
- fifth colored granules adhered to the outer surface of the tab separated from the first colored granules and sixth colored granules by second colored granules and forming a shadow line adjacent the headlap section (see Office Action at page 9, lines 19-22).

Neither Hannah nor Corbin teach or suggest a tab having a first shadow line and a remaining portion, a first shadow line and a remaining portion being on an outer surface of a tab, a first shadow line extending from a leading edge of a tab to a remaining portion of the tab, a layer of granules disposed on a first shadow line of a tab and on a remaining portion of the tab whereby the first shadow line is substantially



darker in color than a remaining portion of the tabs, or granules on a first shadow line that are black. Moreover, Hannah and Corbin fail to teach or suggest first colored granules forming a shadow line adjacent a leading edge of a tab across substantially the entire width of the tab, or fifth colored granules adhered to the outer surface of the tab separated from the first colored granules and sixth colored granules by second colored granules and forming a shadow line adjacent the headlap section.

Therefore, the claims are patentable over applied references, for at least the reasons presented above.

## 2. Missing elements not supplied by Hannah or Corbin.

Hannah fails to teach or supply any of the above listed inventive features. The Examiner asserts that Hannah, in Fig. 23, shows strips with tabs with a first shadow line, referring to a darker part at the beginning of the tab, and a remaining portion to project an aesthetic appearance (see Office Action at page 3, lines 8-9). However, this is a misinterpretation of Hannah. As collectively shown in the figures in the Hannah patent, Hannah discloses tab portions of a shingle comprising multiple layers. In fact, Hannah discloses as many as three layers, as clearly shown in side elevation and bottom views. On each of these is a layer of uniformly distributed granules. None of the layers have shadow lines and remaining portions, wherein the shadow lines are darker in color than the remaining portions. None of the layers have color granules that are a different coloration or shade. Instead, Hannah discloses an upper layer, an intermediate layer, and a lower layer, wherein the upper layer is lighter than the intermediate layer and the intermediate layer is lighter than the lower layer. These layers have leading edges that do not co-align. As a consequence, the leading edge of the darker lower layer is revealed beyond the leading edges of the lighter intermediate and upper layers. Hannah does not teach or suggest strips with tabs with a first shadow line and a remaining portion, as asserted by the Examiner. Further against the application of Hannah, the present invention has granules that are *darker*, or a

*different coloration or shade, disposed on different portions of an overlay and an underlay* so as to produce a shingle having a three-dimensional appearance. Hannah discloses a tab portion of a shingle that does in fact have multiple layers and as a consequence, is in fact three dimensional.

The Examiner relies on Corbin to modify the teaching of Hannah, as set forth above. However, Hannah does not teach or suggest a tab having a first shadow line and a remaining portion, as asserted by the Examiner, for reasons set forth above. Corbin fails to cure this deficiency in Hannah. That is to say, Corbin in combination with Hannah fails to teach or suggest a tab having a first shadow line and a remaining portion, as set forth in the claims, and thus do not supply the elements missing in Weaver.

### 3. No motivation exists for modifying Weaver with Hannah and Corbin.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). See also MPEP 4143.01.

Obviousness cannot be established by combining prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. The mere fact that the prior art may be modified in the manner suggested by an examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In this case, the Examiner has not explained “why a person of ordinary skill in the art would have found it obvious” to combine the references in the manner proposed by the Examiner. It is well-settled that “[o]bviousness may not be established using hindsight or in view of the teachings or suggestions of the invention.” *Para-Ordinance Mfg. Inc. v. SGS Importers Int’l. Inc.*, 73 F.3d at 1087, 37 USPQ2d at 1239 (citing *W.L. Gore & Assoc. v. Garlock, Inc.*, 721 F.2d at 1551, 1553, 220 USPQ at 311, 312-313). These burdens have not been met in

this case. Not only is the prior art lacking in a teaching or motivation to combine the references, even if the combination were made, the result would not read on the claims.

Weaver discloses horizontal striations on an underlay. However, Weaver discloses *a uniform mixture of granules* on tabs (see col. 5, lines 25-26), which teaches away from the tabs having a shadow line and a remaining portion. Hannah discloses tab portions of a shingle comprising a layer of uniformly distributed granules. There is no teaching or suggestion that the tab portions may have a shadow line and a remaining portion. In fact, the principle operation of Hannah would be changed by a shadow line and remaining portion because such a modification would change that ornamental appearance of the tab portions disclosed by Hannah. Lastly, there is no teaching or suggestion in Corbin to combine the teachings of Corbin with Weaver and Hannah.

B. Each independent claim recites a novel and patentable invention.

1. Claim 1 is separately patentable.

As fully set forth above, claim 1 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a laminated roofing shingle having *an overlay with tabs having a first shadow line and a remaining portion* and an underlay having a second shadow line and a remaining portion. The shadow lines are *substantially darker in color* than the remaining portions. The underlay is attached to an underside of the overlay and has a portion *exposed through openings* in the overlay.

Weaver, Hannah and Corbin fail to teach a laminated roofing shingle having *an overlay with tabs having a first shadow line and a remaining portion*.

For at least this reason, independent claim 1 is patentable over applied references.

2. Claim 7 is separately patentable.

As fully set forth above, claim 7 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a laminated roofing shingle having *an overlay with tabs having a leading edge with a first shadow line* and an underlay having a trailing edge with a second shadow line. The shadow lines are *substantially darker* than remaining portions of the tabs and underlay. The underlay is attached to an underside of the overlay so that *the second shadow line is exposed through openings* in the overlay.

Weaver, Hannah and Corbin fail to teach a laminated roofing shingle having *an overlay with tabs having a leading edge and a first shadow line on the leading edge*.

For at least this reason, independent claim 7 is patentable over applied references.

3. Claim 12 is separately patentable.

As fully set forth above, claim 12 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a method for making a laminated roofing shingle comprising the step of applying *darker granules* to portions of a base material *corresponding to a leading edge of tabs of an overlay* and a trailing edge of an underlay and *lighter colored granules* to *remaining portions of the tabs* and underlay.

Weaver, Hannah and Corbin fail to teach a method for making a laminated roofing shingle comprising the step of applying *darker granules* to portions of a base material *corresponding to a leading edge of tabs of an overlay* and *lighter colored granules* to *remaining portions* of the tabs.

For at least this reason, independent claim 12 is patentable over applied references.

4. Claim 21 is separately patentable.

As fully set forth above, claim 21 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a laminated roofing shingle having *an overlay with a tab having a leading edge that is generally darker than a remaining portion of the tab* and an underlay having a shadow line that is generally darker than a remaining portion of the underlay.

Weaver, Hannah and Corbin fail to teach a laminated roofing shingle having *an overlay with a tab having a leading edge that is generally darker than a remaining portion of the tab*.

For at least this reason, independent claim 21 is patentable over applied references.

5. Claim 22 is separately patentable.

As fully set forth above, claim 22 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a laminated roofing shingle having an overlay with a tab having *a first shadow line between a leading edge and a remaining portion thereof* and an underlay having a remaining portion between a leading edge and a second shadow line thereof. The shadow lines are *generally darker* than the remaining portions. A portion of the underlay is *exposed*.

Weaver, Hannah and Corbin fail to teach a laminated roofing shingle having an overlay with a tab having *a first shadow line between a leading edge and a remaining portion thereof*.

For at least this reason, independent claim 22 is patentable over applied references.

6. Claim 23 is separately patentable.

As fully set forth above, claim 23 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a laminated roofing shingle having an overlay with a tab having *a first shadow line between a leading edge and a remaining portion* thereof and an underlay having a remaining portion between a leading edge and a second shadow line thereof. *The shadow lines are a different color or shade than the remaining portions.* The underlay has *an exposed portion*.

Weaver, Hannah and Corbin fail to teach a laminated roofing shingle having an overlay with a tab having *a first shadow line between a leading edge and a the remaining portion*.

For at least this reason, independent claim 23 is patentable over applied references.

7. Claim 24 is separately patentable.

As fully set forth above, claim 24 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a laminated roofing shingle having a tab with *first colored granules adhered to a leading edge of an outer surface* thereof and *second colored granules adhered to the outer surface and separated from the leading edge thereof by the first colored granules*, wherein the second colored granules *have a different coloration or shade* than the first colored granules, and an underlay having third colored granules adhered to a trailing edge of an outer surface thereof and fourth colored granules adhered adjacent the leading edge of the outer surface of the underlay, wherein the fourth colored granules have a different coloration or shade than the third colored granules.

Weaver, Hannah and Corbin fail to teach a laminated roofing shingle having a tab with *first colored granules adhered to a leading edge of an outer surface* thereof

and *second colored granules adhered to the outer surface and separated from the leading edge thereof by the first colored granules*, wherein the second colored granules *have a different coloration or shade* than the first colored granules.

For at least this reason, independent claim 24 is patentable over applied references.

8. Claim 34 is separately patentable.

As fully set forth above, claim 34 is separately patentable over at least Weaver taken either alone or in combination with Hannah and Corbin. The present invention is directed toward a method for making a laminated roofing shingle, comprising the step of applying granules of *one color or shade* to portions of the base material corresponding to *a leading edge of a tab of an overlay* of the resultant laminated shingle and a trailing edge of an underlay of the resultant laminated shingle and applying granules of a different color or shade to adjacent portions of the tab and the underlay.

Weaver, Hannah and Corbin fail to teach a method for making a laminated roofing shingle, comprising the step of applying granules of *one color or shade* to portions of the base material *corresponding to a leading edge of a tab of an overlay* of the resultant laminated shingle and applying granules of *a different color or shade to adjacent portions of the tab*.

For at least this reason, independent claim 34 is patentable over applied references.

C. The following dependent claims are separately patentable.

1. As clearly set forth above, there is no motivation found in Weaver, Hannah and Corbin to find the present inventive laminated roofing shingle, as defined in the independent claims 1, 7, 12, 21-24 and 34.

2. Claims 2 and 8 are each patentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

Claim 2, which is dependent from claim 1, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Claim 8, which is dependent from claim 7, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Weaver, Hannah and Corbin fail to teach the feature of claims 2 and 8, where the tabs further have a trailing edge on a side of the remaining portion of the tabs opposite the leading edge of the tabs, and granules on the trailing edge form a shadow line that is substantially narrow relative to the shadow line on the trailing edge of the underlay.

Therefore, at least for these reasons Weaver, Hannah and/or Corbin, taken alone or in combination, fail to teach or suggest the invention defined in claims 2 and 8.

3. Claims 6 and 11 are each patentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

Claim 6, which is dependent from claim 1, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Claim 11, which is dependent from claim 7, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Weaver, Hannah and Corbin fail to teach the feature of claims 6 and 11, where the first shadow line is generally narrow relative to the second shadow line.

Therefore, at least for these reasons Weaver, Hannah and/or Corbin, taken alone or in combination, fail to teach or suggest the invention defined in claims 6 and 11.



4. Claim 25 is patentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

Claim 25, which is dependent from claim 24, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Weaver, Hannah and Corbin fail to teach the feature of claim 25, where fifth colored granules adhere to the outer surface of the tab separated from the first colored granules by the second colored granules, the fifth colored granules having a different coloration or shade than the second colored granules.

Therefore, at least for these reasons Weaver, Hannah and/or Corbin, taken alone or in combination, fail to teach or suggest the invention defined in claim 25.

5. Claim 26 is patentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

Claim 26, which is dependent from claim 24, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Weaver, Hannah and Corbin fail to teach the feature of claim 26, where the first colored granules form a shadow line adjacent the leading edge of the tab across substantially the entire width of the tab.

Therefore, at least for these reasons Weaver, Hannah and/or Corbin, taken alone or in combination, fail to teach or suggest the invention defined in claim 26.

6. Claim 27 is patentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

Claim 27, which is dependent from claim 24, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Weaver, Hannah and Corbin fail to teach the feature of claim 27, where the first colored granules comprise darker granules than the second colored granules.

Therefore, at least for these reasons Weaver, Hannah and/or Corbin, taken alone or in combination, fail to teach or suggest the invention defined in claim 27.

7. Claim 33 is patentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

Claim 33, which is dependent from claims 24 and 29-32, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Weaver, Hannah and Corbin fail to teach the feature of claim 33, where fifth colored granules adhere to the outer surface of each of the tabs separated from the first and sixth colored granules by the second colored granules, the fifth colored granules have a different coloration or shade than the second colored granules and form a fourth shadow line adjacent the headlap section.

Therefore, at least for these reasons Weaver, Hannah and/or Corbin, taken alone or in combination, fail to teach or suggest the invention defined in claim 33.

8. Claim 43 is patentable under 35 U.S.C. § 103(a) over Weaver in view of Hannah and Corbin.

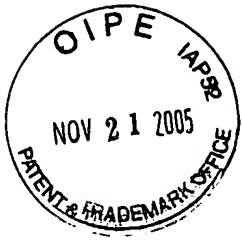
Claim 43, which is dependent from claim 34, is further patentable over at least Weaver taken either alone or in combination with Hannah or Corbin.

Weaver, Hannah and Corbin fail to teach the feature of claim 43, where granules of the first color or shade are applied to portions of the base material corresponding to the tab and spaced from the leading edge of the tab and separated from the granules applied to the leading edge of the tab by the granules of the second color.

Therefore, at least for these reasons Weaver, Hannah and/or Corbin, taken alone or in combination, fail to teach or suggest the invention defined in claim 43.

Conclusion

In view of the above remarks, Appellant has shown that the claims are in proper form for allowance, and the invention, as defined in the claims herein, is neither disclosed nor suggested by the references of record. In view of the foregoing arguments, the rejections of the claims 1-45 are in error, and should be reversed. Appellant accordingly respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner as to all rejections.



### VIII. Claims Appendix

1. A laminated roofing shingle comprising:

an overlay having an underside and a plurality of spaced apart tabs, each one of said tabs having a leading edge, a first shadow line and a remaining portion, said tabs defining openings adjacent said tabs;

a layer of granules disposed on said first shadow line of said tabs and on said remaining portion of said tabs, said granules on said first shadow line of said tabs being substantially darker in color than said granules on said remaining portion of said tabs;

an underlay attached to said underside of said overlay to cooperatively form said laminated roofing shingle, said underlay having a leading edge, a second shadow line, and a remaining portion between said leading edge of said underlay and said second shadow line, said leading edge of said underlay generally co-aligning with said leading edge of said tabs, said underlay having a portion exposed through said openings defined adjacent said tabs; and

a layer of granules disposed on said underlay, said granules on said second shadow line of said underlay being substantially darker than said granules on said remaining portion of said underlay.

2. A laminated roofing shingle according to claim 1, wherein each one of said tabs further has a trailing edge on a side of said remaining portion of said tabs opposite said leading edge of said tabs, said granules on said first shadow line and said granules on said shadow line on said trailing edge of said tabs being generally uniform in color, said shadow line on said trailing edge of said tabs being substantially narrow relative to said shadow line on said trailing edge of said underlay.

3. A laminated roofing shingle according to claim 1, wherein said first shadow line defines a minority portion of said tabs and said second shadow line defines a minority portion of said underlay, said remaining portion of said tabs defining a majority portion of said tabs and said remaining portion of said underlay defining a majority portion of said underlay.
4. A laminated roofing shingle according to claim 1, wherein said overlay and said underlay are each formed from a base material comprising a fiberglass mat that has been coated with asphalt.
5. A laminated roofing shingle according to claim 1, wherein said granules on said first shadow line and said granules on said second shadow line are black granules.
6. A laminated roofing shingle according to claim 1, wherein said first shadow line is generally narrow relative to said second shadow line.
7. A laminated roofing shingle comprising:
  - an overlay having an underside, a headlap section and a plurality of spaced apart tabs extending from said headlap section, said headlap section having a leading edge, each one of said tabs having a leading edge, an outer surface, a first shadow line and a remaining portion, said first shadow line and said remaining portion being on said outer surface of said tabs, said first shadow line extending from said leading edge of said tabs to said remaining portion of said tabs, said tabs and said leading edge of said headlap section defining openings;
  - a layer of granules disposed on said first shadow line of said tabs and on said remaining portion of said tabs, said granules on said first shadow line of said tabs

being substantially darker in color than said granules on said remaining portion of said tabs;

an underlay attached to said underside of said overlay to cooperatively form said laminated roofing shingle, said underlay having an outer surface, a leading edge, a trailing edge, a second shadow line, and a remaining portion between said leading edge of said underlay and said second shadow line, said leading edge of said underlay generally co-aligning with said leading edge of said tabs, said second shadow line and said remaining portion of said underlay being on said outer surface of said underlay, said second shadow line extending from said trailing edge of said underlay to said remaining portion of said underlay, said underlay having a portion exposed through said openings defined by said tabs and said leading edge of said headlap section, said second shadow line being exposed through said opening and adjacent said leading edge of said headlap section; and

a layer of granules disposed on said underlay, said granules on said second shadow line of said underlay being substantially darker than said granules on said remaining portion of said underlay.

8. A laminated roofing shingle according to claim 7, wherein each one of said tabs further has a trailing edge on a side of said remaining portion of said tabs opposite said leading edge of said tabs, and a shadow line on said trailing edge of said tabs, said granules on said first shadow line and said granules on said shadow line on said trailing edge of said tabs being substantially uniform in color, said shadow line on said trailing edge of said tabs being generally narrow relative to said shadow line on said trailing edge of said underlay.

9. A laminated roofing shingle according to claim 7, wherein said overlay and said underlay are each formed from a base material comprising a fiberglass mat that has been coated with asphalt.

10. A laminated roofing shingle according to claim 7, wherein said granules on said first shadow line and said granules on said second shadow line are black granules.

11. A laminated roofing shingle according to claim 7, wherein said first shadow line is generally narrow relative to said second shadow line.

12. A method of making laminated roofing shingle having an overlay and an underlay formed from a base material having an outer surface and an undersurface, the overlay having tabs and openings defined adjacent the tabs, the tabs having leading edges, the underlay having a trailing edge, said method comprising the steps of:

- (a) coating a base material to produce a coated base material;
- (b) forming a granule-covered sheet by applying a layer of granules to the outer surface of the coated base material so as to apply darker granules to portions of the base material corresponding to the leading edge of the tabs of the resultant laminated shingle and on the trailing edge of the underlay of the resultant laminated shingle and apply lighter colored granules to remaining portions of the tabs and the underlay so as to produce darker and lighter color portions; and
- (c) cutting the granule covered sheet to form the overlay of the resultant laminated shingle and the underlay of the resultant laminated shingle.

13. A method according to claim 12, wherein said base material is a fiberglass mat comprising glass fibers and void spaces between the glass fibers and said coating steps includes coating the glass fibers and filling the void spaces between the glass fibers.

14. A method according to claim 13, wherein said coating is an asphalt coating.

15. A method according to claim 14, wherein said coating step further comprises the step of applying inert materials to the undersurface of the coated fiberglass mat to make the undersurface non-tacky.

16. A method according to claim 14, wherein said coating step further comprises the step of applying powdered limestone to the undersurface of the fiberglass mat to make the undersurface non-tacky.

17. A method according to claim 12, wherein said cutting step further comprises the steps of:

(a) cutting the granule covered sheet into two overlapping horizontal lanes, each lane having a width corresponding to the width of the overlay of the resultant laminated shingle; and

(b) cutting the base material laterally at lengths corresponding to the length of the overlay of the resultant laminated shingle.

18. A method according to claim 16, wherein said cutting step further includes cutting the base material along a pattern to produce tabs and openings of the overlays of the resultant laminated shingle of two side-by-side overlays, wherein each overlay is complementary to the other overlay.

19. A method according to claim 12, wherein said cutting step further comprises the steps of:

(a) cutting the granule covered sheet into four horizontal lanes including two overlapping inner lanes each having a width corresponding to the width of the overlay of the resultant laminated shingle and two outer lanes each having a width corresponding to the width of the underlay of the resultant laminated shingle; and



(b) cutting the granule covered sheet laterally at lengths corresponding to the length of the overlay and the underlay of the resultant laminated shingle, the overlay and the underlay being substantially the same length.

20. A method according to claim 18, wherein said cutting step further includes cutting the base material along a pattern to produce tabs and openings of the overlays of the resultant laminated shingle of two side-by-side overlays, wherein each overlay is complementary to the other overlay.

21. A laminated roofing shingle comprising:  
an overlay having a tab with a leading edge having granules thereon and a remaining portion having granules thereon, wherein said leading edge granules are darker granules than said remaining portion granules; and  
an underlay attached to said overlay, said underlay having a shadow line having granules thereon and a remaining portion having granules thereon, wherein said shadow line granules are darker than said underlay remaining portion granules.

22. A laminated roofing shingle comprising:  
an overlay having a tab with a leading edge, a first shadow line, and a remaining portion, the shadow line being positioned between said leading edge and said remaining portion;  
a layer of granules disposed on said first shadow line and on said remaining portion of said tab, said granules on said first shadow line being darker in color than said granules on said remaining portion;  
an underlay attached to said underside of said overlay to cooperatively form said laminated roofing shingle, said underlay having a leading edge, a second shadow line, and a remaining portion between said leading edge of said underlay and said

second shadow line, said leading edge of said underlay generally co-aligning with said leading edge of said tab, said underlay having an exposed portion; and

a layer of granules disposed on said underlay, said granules on said second shadow line of said underlay being generally darker than said granules on said remaining portion of said underlay.

23. A laminated roofing shingle comprising:

an overlay having a tab with a leading edge, a first shadow line, and a remaining portion, the shadow line being positioned between said leading edge and said remaining portion;

a layer of granules disposed on said first shadow line and on said remaining portion of said tab, said granules on said first shadow line being a different color or shade than said granules on said remaining portion;

an underlay attached to said underside of said overlay to cooperatively form said laminated roofing shingle, said underlay having a leading edge, a second shadow line, and a remaining portion between said leading edge of said underlay and said second shadow line, said leading edge of said underlay generally co-aligning with said leading edge of said tab, said underlay having an exposed portion; and

a layer of granules disposed on said underlay, said granules on said second shadow line of said underlay being a different color or shade than said granules on said remaining portion of said underlay.

24. A laminated shingle having a headlap section and a butt section, comprising:

an overlay having a tab in said butt section, said tab having an outer surface with a trailing edge adjacent said headlap section and a leading edge spaced from said trailing edge, said tab having a width;

an underlay attached to an underside of said overlay, said underlay having an outer surface, said underlay outer surface positioned adjacent said tab with a trailing edge adjacent said headlap section and a leading edge spaced from said trailing edge; and

first colored granules adhered to said outer surface of said tab adjacent said leading edge of said tab;

second colored granules adhered to said outer surface of said tab separated from said leading edge of said tab by said first colored granules, said second colored granules having a different coloration or shade than said first colored granules;

third colored granules adhered to said trailing edge of said outer surface of said underlay; and

fourth colored granules adhered adjacent said leading edge of said outer surface of said underlay having a different coloration or shade than said third colored granules.

25. A laminated shingle according to claim 24, further comprising fifth colored granules adhered to said outer surface of said tab separated from said first colored granules by said second colored granules, said fifth colored granules having a different coloration or shade than said second colored granules.

26. A laminated shingle according to claim 24, wherein said first colored granules form a shadow line adjacent said leading edge of said tab across substantially said entire width of said tab.

27. A laminated shingle according to claim 26, wherein said first colored granules comprise darker granules than said second colored granules.

28. A laminated shingle according to claim 27, wherein said first colored granules comprise black colored granules.

29. A laminated shingle according to claim 24, wherein said third colored granules form a shadow line adjacent said trailing edge of said outer surface of said underlay.

30. A laminated shingle according to claim 29, wherein said third colored granules comprise darker granules than said fourth colored granules.

31. A laminated shingle according to claim 30, wherein said first and third colored granules comprise black colored granules.

32. A laminated shingle according to claim 31, further comprising a second tab, said second tab adjacent said outer surface of said underlay, said second tab having sixth colored granules forming a shadow line adjacent a leading edge of said second tab.

33. A laminated shingle according to claim 32, further comprising fifth colored granules adhered to said outer surface of each of said tabs separated from said first and sixth colored granules by said second colored granules, said fifth colored granules having a different coloration or shade than said second colored granules and forming a fourth shadow line adjacent said headlap section.

34. A method of making a laminated roofing shingle having an overlay and an underlay formed from a base material having an outer surface and an undersurface, said overlay having a tab, said tab having a leading edge, said underlay having a trailing edge, said method comprising said steps of:

- (a) coating a base material to produce a coated base material;
- (b) forming a granule-covered sheet by applying a layer of granules to the outer surface of the coated base material so as to apply granules of one color or shade

to portions of the base material corresponding to the leading edge of the tab of the resultant laminated shingle and to the trailing edge of the underlay of the resultant laminated shingle and apply granules of a different color or shade to adjacent portions of the tab and the underlay; and

(c) cutting the granule covered sheet to form the overlay of the resultant laminated shingle and the underlay of the resultant laminated shingle.

35. A method according to claim 34, wherein the base material is a fiberglass mat comprising glass fibers and void spaces between the glass fibers and said coating step includes coating the glass fibers and filling the void spaces between the glass fibers.

36. A method according to claim 35, wherein the coating is an asphalt coating.

37. A method according to claim 36, wherein said coating step further comprises the step of applying inert materials to the undersurface of the coated fiberglass mat to make the undersurface non-tacky.

38. A method according to claim 35, wherein said coating step further comprises the step of applying powdered limestone to the undersurface of the fiberglass mat to make the undersurface non-tacky.

39. A method according to claim 38, wherein said cutting step further includes cutting the base material along a pattern to produce a plurality of tabs and openings of the overlays of the resultant laminated shingle of two side-by-side overlays, wherein each overlay is complementary to the other overlay.

40. A method according to claim 39, wherein said cutting step further includes cutting the base material along a pattern to produce a plurality of tabs and openings of the overlays of the resultant laminated shingle of two side-by-side overlays, wherein each overlay is complementary to the other overlay.

41. A method according to claim 34, wherein said cutting step further comprises the steps of:

(a) cutting the granule covered sheet into two overlapping horizontal lanes, each lane having a width corresponding to the width of the overlay of the resultant laminated shingle; and

(b) cutting the base material laterally at lengths corresponding to the length of the overlay of the resultant laminated shingle.

42. A method according to claim 34, wherein said cutting step further comprises the steps of:

(a) cutting the granule covered sheet into four horizontal lanes including two overlapping inner lanes each having a width corresponding to the width of the overlay of the resultant laminated shingle and two outer lanes each having a width corresponding to the width of the underlay of the resultant laminated shingle; and

(b) cutting the granule covered sheet laterally at lengths corresponding to the length of the overlay and the underlay of the resultant laminated shingle, the overlay and the underlay being substantially the same length.

43. A method according to claim 34, further comprising said step of applying granules of the first color or shade to portions of the base material corresponding to the tab and spaced from the leading edge of the tab and separated from the granules applied to the leading edge of the tab by the granules of the second color.

44. A method according to claim 34, wherein the first granules form a dark shadow line adjacent the leading edge of the tab and the trailing edge of the underlay.

45. A method according to claim 44, wherein the first granules form a dark shadow line adjacent the leading edge of the tab, the trailing edge of the underlay, and a trailing edge of the tab spaced from the leading edge of the tab.